

MAINE HARNESS RACING COMMISSION
MINUTES OF MEETING
May 12, 2014
Gambling Control Board Conference Room
Department of Public Safety Building
45 Commerce Drive, Augusta, Maine

Commission Members Present: Barbara Dresser, Chair, James Tracy, Gary Reed and Michael Timmons. Absent: Commissioner Dirk Duncan.

Staff Members Present: Ron Guay, AAG, Miles Greenleaf, Zachary Matzkin, and Carol Gauthier. Absent: Henry Jackson.

There were no minutes available.

ADJUDICATORY HEARINGS:

1. None.

UNFINISHED BUSINESS:

1. Commissioner Dresser stated that they would review and take action on the proposed rules that were advertised on April 2, 2014 for adoption. Attorney Guay stated that he did not receive any comments or a report from Mr. Jackson so they would not vote on the rules today.

NEW BUSINESS:

1. Commissioner Dresser stated that they would review the information provided about the Association of Racing Commissioners International (ARCI). She stated that they received the information and she personally feels that they are the only track in the country that is not a member. She would like to see them join. Commissioner Timmons stated that he agreed with Commissioner Dresser. Commissioner Tracy made a motion that the Commission joins the Association of Racing Commissioners International. Commissioner Reed seconded the motion. Commissioner Dresser asked for any discussion. There was no discussion. She asked for the vote. Vote 4-0.
2. Commissioner Dresser stated that they would review the proposed rule changes presented by the Ad Hoc Rules Review Committee. Presiding Judge, Mr. Malia presented to the Commission the proposed changes that the committee came up with for Chapter 11 and Chapter 17.

REPORTS:

1. Commissioner Dresser stated that they would have the Executive Director's updates. She asked Attorney Guay what his understanding was of OTB Facilitators. Attorney Guay stated that his understanding is that they have an application for an assumption of that license which came in Friday. He stated that they would have to do an evaluation of the licensee and he asked Mr. Jackson to start that process. He's in the process of getting the FBI and the State Police investigation as well. As far as the OTB itself, they are back in operation, but they did close their doors for a short time. The license is still active for the Commission did not take any action on it. There are some preliminary agreements between the parties. A party is looking to buy the operation and that party will have to be licensed. In the meantime, the license is held by the current licensee.
2. Commissioner Dresser stated that she would ask for an update on the position of the executive director of the Maine Harness Horsemen's Association. She asked Mr. Higgins from the MHHA if

he would give the Commission an update on the executive director's position. Mr. Higgins stated that the contract was not renewed. Commissioner Dresser said that the position was not going to be eliminated. Mr. Higgins stated that was correct. Commissioner Dresser asked if he would be the point of contact for the rule changes. Mr. Higgins stated yes.

3. Commissioner Dresser stated that Scarborough Downs is requesting to re-open the race date assignment hearing to be awarded September 5, 2014. In their packets there was an email from Steve Cobbett representing Scarborough Downs to Mr. Jackson requesting the race date. Attorney Guay stated that they need to reopen the hearing. Commissioner Tracy made a motion to reopen the race date specifically for the purpose of acting upon the request by Scarborough Downs. Commissioner Reed seconded. Commissioner Dresser asked for any discussion or any questions of Mr. Cobbett. Commissioner Timmons asked Mr. Cobbett if there was any venue racing on that particular date of September 5, 2014. Mr. Cobbett stated that no one else is racing. Commissioner Timmons asked what two fairs are going on at that time. Mr. Fred Lunt stated that Clinton and Litchfield fairs would be operating at that time. Attorney Guay hearing officer sworn in Mr. Cobbett. Commissioner Timmons asked Mr. Cobbett how he would get the information to people regarding this change in race date. Mr. Cobbett stated that he would do his best to notify the public on the change. Attorney Guay asked the intervenors if they had any questions. Diann Perkins, representing the Maine Breeders and Owner's Association asked Mr. Cobbett if the Maine Harness Horsemen's Association had been notified and have they responded to this question. Mr. Cobbett stated that he had discussion with the former executive director about the dates in question and he was informed by her that there was no problem. Attorney Guay asked if there were any questions of staff. He asked if any intervenors had any evidence or testimony that they would like to present. He stated that they did reopen the race date hearing and there was notice of the request in the agenda that was published for today; however do you formerly waive the notice requirement under Chapter 21 of our rules. Mr. Cobbett responded with "I do". Attorney Guay asked if there were any intervenors that have any objection to this proceeding specifically around waiving the notice requirement. Ms. Perkins stated that the only question she would have is if there was a change like this there has always been notification and intervenors have been noticed. She stated that she has never seen it done with a waiver. Attorney Guay stated that's why he's asking if there's any objection, so you're making notice that you have not seen this occur before. Are you formally filing an objection to the proceeding or are you making comment that this is unusual. Ms. Perkins stated that this is unusual and she thinks it shouldn't be done by a waiver. Commissioner Dresser asked if they could have it noticed for next month's hearing; postpone their decision until then. Would that still give them enough time to make this change, and that way they can make sure all of their bases are covered and there are no irregularities. Attorney Guay stated yes, since there is an objection by an intervenor than he would recommend that at this point close this race date hearing, provide notice as required under Chapter 21 and reconvene. As hearing officer he will say that they don't have to reintroduce evidence but there will be an opportunity for additional testimony but we will also take notice of the testimony and the questions that have already been asked. He does not think that they can move forward to deliberations given the objection that was filed by an intervenor. At this point, he would move that they close this proceeding. Commissioner Reed made a motion to close the proceeding. Commissioner Tracy seconded. Commissioner Dresser asked if they need to suspend the first motion. Attorney Guay stated that they can withdraw the motion. Commissioner Tracy withdrew the motion. Commissioner Dresser stated that on the off chance that they did reopen the hearing lets vote to close the hearing. Vote 4-0.

OTHER BUSINESS:

1. Commissioner Dresser stated that she discussed with Mr. Jackson the horse supply issue. She asked Mr. Sawyer what steps have been taken to minimize the problem. Mr. Sawyer stated that his horse population is down 14 to 15%. He has jumped the claiming price up from \$3,000 to \$4,000. He also stated that he has a problem with Chapter 7, Section 16 I. Commissioner Dresser stated that she thought this rule had been taken care of. Mr. Sawyer stated that any gambler would look at a field that small and turn the page and do no betting. Everybody loses. The track, the horsemen and everybody. Commissioner Dresser stated especially if the alternative is canceling and we need to figure out a third alternative. Commissioner Timmons stated that he was the one that writes the conditions. Commissioner Dresser wants to have an open session to get the dialogue going to see if we can come up with a way that they can make things better. Mr. Nichols stated that he doesn't have as much of an issue with that rule because being assigned to the outside in Bangor means you got the five hole to make the race. He stated that so far this year for eight dates they average 57 entries a day verses last year we had 70 a day. He also stated that they've had 30% of starters from Canada and they've had a dreadful time this spring. He requested that maybe in the early part of the year when you get together with the staff, and think about giving them authorization in a situation like that where in fact less horses would be used over a 48 hour period than originally anticipated that they have the leeway to do that to get them raced. Commissioner Dresser stated that statutorily by statute we made the determination as to how many dashes could be carded. We are limited short of reopening the hearings similar to what we are doing with Scarborough to allow them to move a date. Mr. Nichols stated that the classes are pretty dispirit. The horsemen love the five horse fields. Commissioner Dresser stated that the problem we have is that that may be great in the short run but in the long run that is going to cripple us. We got to make changes now for down the road. Mr. Nichols stated that the horse supply is down. Commissioner Dresser asked Mr. Nichols if he could send out a notification to horsemen by email. Mr. Nichols stated that he does call horsemen. He also stated that he would check with the MHHA regarding email addresses for horsemen. Commissioner Dresser stated to Mr. Nichols that he might want to talk to Paul at Plainridge and talk him through it. Mr. Nichols stated that there is nothing like a phone call to talk the person into entering their horse. Commissioner Dresser stated that what she would like to see is the notification and the phone calls made. Mr. Bacon stated that Massachusetts has a minimum of 7 races that constitutes a program. Commissioner Dresser stated that we need to start thinking now for down the road. We need to have more flexibility. Dr. Matzkin stated that the horses he has seen already racing back. Mr. Sweeney stated that he would back Dr. Matzkin up. Maybe next year we can look at some statutory changes. Mr. Higgins stated that the idea of a statutory change is far better than changing the rule. Maybe a group be formed to review the statutes. Mr. McFarland stated that at Windsor this winter he has the least number of horses in the barn. He stated that he had two Canadians move back to Canada because providence put \$5 million in their purse structure. Mr. Lunt stated that when he comes to the race date hearings he keeps hearing from staff to shorten the number of dashes. Commissioner Dresser stated that she voted against limiting the number of dashes because we end up with a situation we had a Bangor where we had enough horses for 11 but could only card 10. Mr. Lunt stated that we need to be more flexible for the people that are trying to put these race dates on. Ms. Perkins stated that some believe they start the Sire Stakes races too early. One of the reasons they do it is because they want to race in Bangor. Mr. McFarland stated that without Bangor you are not going to race at the fairs. The Bangor Racetrack is the training facility for the fairs that follow. You should be asking the Canadians to come down here because the horse supply has already dwindled. Commissioner Dresser stated that if we can have communication between the race secretaries that's going to help a lot. Commissioner Timmons stated that if they were to get to September when their fair was to open with the number of dashes and the double card that he has, and he felt that would be

a negative to Fryeburg then he would make the adjustments before that took place. He also stated that Cumberland's barns are full and he even had to open up a barn that they haven't used for years. Commissioner Tracy stated that if you're looking to perhaps to change some laws one of the things that at least ought to be looked at he's not sure it should be changed is getting away from monies being allotted based upon dashes; perhaps it should go like it originally was and still is on the old based on race dates. Mr. Sweeney stated that he agrees with Commissioner Tracy. Commissioner Reed stated that it is very clear to him that in their discussions with one another that they need to strike the word "they" and replace it with "we". Commissioner Dresser stated that we need to make things better and we can't do it without everybody cooperating and participating.

Commissioner Tracy made a motion to adjourn and Commissioner Reed seconded. Vote 4-0.

The meeting adjourned at 3:00 p.m.

Respectfully submitted by:
Henry W. Jackson
Executive Director